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Attorneys for Plaintiff
CHONG'S PRODUCE, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHONG'S PRODUCE, INC.

Plaintiff,

v.

ANO SAMIKO, INC. dba SOUTH VALLEY
PRODUCE, a California Corporation; FOTIS
DIONISOPOULOS, individually, and DOES 1
to 10,

Defendants.

Case No. C 09 00659 JW

[Signature]
~~PROPOSED~~ AMENDED JUDGMENT
UNDER THE PERISHABLE
AGRICULTURAL COMMODITIES ACT
(7 U.S.C. §499e)

A Complaint was filed by Plaintiff CHONG'S PRODUCE, INC. against ANO SAMIKO, INC. dba SOUTH VALLEY PRODUCE, a California Corporation; and FOTIS DIONISOPOULOS, individually, on February 13, 2009. On February 13, 2009, this Court issued a Temporary Restraining Order against ANO SAMIKO, INC.

A hearing on Plaintiff's motion for Preliminary Injunction and Motion to Consolidate the Trial on the Merits was heard on February 23, 2009 at 9:00 a.m. Susan E. Bishop appeared as counsel for Plaintiff. Defendant did not appear.

Accordingly, **IT IS HEREBY ORDERED:**

A. Chong's Produce is a valid trust beneficiary of ANO SAMIKO, INC. pursuant to


1 Section 5(c) of the PACA, 7 U.S.C. §499e(c), in the aggregate amount of \$24,734.12, exclusive of
 2 interest and attorneys' fees and costs for violation of PACA by failing to maintain PACA trust
 3 assets and failing to pay CHONG'S PRODUCE, INC. promptly under 7 U.S.C. §§499b(4) and
 4 (e)(c)(2).

5 B. Starting in 1999, Plaintiff CHONG'S PRODUCE, INC. began selling Produce to
 6 ANO SAMIKO, INC. in interstate commerce. In 2008, ANO SAMIKO, INC. purchased from
 7 Plaintiff produce in the amount of \$24,734.12. Plaintiff CHONG'S PRODUCE, INC. delivered the
 8 Produce to ANO SAMIKO, INC. and ANO SAMIKO, INC. accepted the Produce from Plaintiff
 9 but ANO SAMIKO, INC. failed to pay the invoices related to those orders. As of February 13,
 10 2009, ANO SAMIKO, INC. has failed to pay the principal balance due of \$24,734.12.

11 C. FOTIS DIONISOPOULOS, as the President of ANO SAMIKO, INC. had a duty to
 12 ensure that ANO SAMIKO, INC. fulfilled its duties as a PACA trustee, and maintained PACA
 13 Trust Assets in such a manner so as to ensure there were, at all times, sufficient Trust Assets
 14 available to satisfy all outstanding PACA trust obligations, such as that owed to Plaintiff, as they
 15 became due. FOTIS DIONISOPOULOS breached his fiduciary duty to direct ANO SAMIKO,
 16 INC. to fulfill its duty as a PACA trustee to preserve and maintain sufficient PACA Trust Assets to
 17 pay Plaintiff for the Produce supplied by it to ANO SAMIKO, INC.. As a direct result of FOTIS
 18 DIONISOPOULOS' breach of fiduciary duty, Plaintiff has incurred damages in the amount of
 19 \$24,734.12, plus interest from the date each invoice became past due, costs and attorneys' fees.
 20 FOTIS DIONISOPOULOS is personally liable to Plaintiff for the breach of their fiduciary duty in
 21 dissipating the PACA trust.

22 D. After this Court issued its initial judgment, Plaintiff filed a motion for attorneys' fees
 23 and costs. On May 12, 2009, the Court granted Plaintiff's motion and ordered Defendants to pay
 24 attorneys' fees and costs in total amount of \$6,035.00 within 30 days

25 E. An Amended Judgment is hereby entered in favor of Plaintiff CHONG'S
 26 PRODUCE, INC. and against ANO SAMIKO, INC. and FOTIS DIONISOPOULOS, jointly and
 27 severally in the amount of \$30,769.12.
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Honorable Judge James Ware
United States District Court Judge

CASE NAME: Chong's Produce v. Ano Samiko, Inc et al. - **Case Number:** CV09-00659 JW

PROOF OF SERVICE

I am a citizen of the United States. My business address is The PruneYard Tower I, 1901 South Bascom Avenue, Ste. 350, Campbell, CA 95008. I am employed in the county of Santa Clara where this service occurs. I am over the age of 18 years and not a party to the within cause.

On May 13, 2009, I served the following document described as:

(PROPOSED) AMENDED JUDGMENT UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT (7 U.S.C. §499e)

- ☒ **BY MAIL:** I am readily familiar with my employer's normal business practice of collection and processing of correspondence for mailing. Under that practice, correspondence is deposited with the U.S. Postal Service that same day in a sealed envelope(s) with postage thereon fully prepaid at Campbell, California, in the ordinary course of business.
- ☐ **BY FAX:** I served said document(s) by transmitting via facsimile from facsimile number (408) 297-2774 to the facsimile number(s) set forth below, or as stated on the attached service list, on this date after 5:00 p.m. A statement that this document was successfully transmitted without error is hereby attached to the Proof of Service.
- ☐ **BY PERSONAL SERVICE:** I caused such documents to be delivered by hand to the offices of
- ☐ **BY OVERNIGHT DELIVERY:** I caused such envelope(s) to be delivered on the same day to an authorized courier or driver or to a regular box or other facility regularly maintained by **FEDERAL EXPRESS** with delivery fees provided for, addressed to the person(s) on whom it is to be served.

on the interested party(ies) in this action addressed as follows:

FOTIS DIONISOPOULOS 1005 5 th Street San Jose, CA 95112 6306 Snell Avenue San Jose, CA 95123	Authorized Agent for Defendants ANO SAMIKO, INC. dba SOUTH VALLEY PRODUCE, a California Corporation.
PROVANTA CORPORATION 1798 Technology Drive, Suite 200 San Jose, CA 95110	Power-of-Attorney

- ☐ **STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ☒ **FEDERAL:** I declare that I am employed in the office of a member of the bar of this Court whose direction of the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

1 Executed on May 13, 2009 at Campbell, California.

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3 /s/ Emily A. Khasin
4 Emily A. Khasin
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